IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

Crl.MC.No. 1933 of 2007()

CC.422/2002 of JUDL.MAGISTRATE OF FIRST CLASS-II, KOCHI

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PETITIONER: COMPLAINANT

M/S SRI.AYYAPPA PAPER COMPANY PRIVATE LIMITED, XL/1748, ERNAKULAM MERCHANTS UNION ROAD, BROADWAY, ERNAKULAM, REPRESENTED BY ITS POWER OF ATTORNEY HOLDER SRI. PERIYAKARUPPAN.

BY ADV. SRI.A.BALAGOPALAN
SRI.A.RAJAGOPALAN

RESPONDENTS: ACCUSED NO.1 AND 2 /STATE

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1. **M/S SIVA SAKTHI PACKAGES, A PARTNERSHIP FIRM HAVING ITS OFFICE AT I B, 3RD CROSS ROAD, KAMA5RAJ COLONY, HOSUR AND FACTORY AT 11TH K.M., KELAMANGALAM ROAD, AGGONDAPALLI (VIA), HCF, DENKANIKOTTAI T.K., DHARMAPURTI DISTRICT REPD. BY ITS MANAGING PARTNER A.VENKATESALU.**

2. **A.VENKATESALU, MANAGING PARTNER, M/S SIVA SAKTHI PACKAGES, HAVING ITS OFFICE AT I B 3RD CROSS ROAD, KAMARAJ COLONY, HOSUR AND FACTORY AT 11TH K.M., KELAMANGALAM ROAD, AGGONDAPALLI(VIA) HCF, DENKANIKOTTAI T.K., DHARMAPURI DISTRICT.**

3. **STATE OF KERALA REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.**

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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Crl.M.C. No.1933 Of 2007

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Dated this the 9th day of July, 2007

ORDER

The petitioner is the complainant in a prosecution under Section 138 of Negotiable Instruments Act. The cheque is for an amount of Rs.25,000/-. The petitioner is aggrieved by the directions issued by the learned Magistrate to take steps to effect the publication in the Indian Express or the Hindu Daily having all India coverage to secure the presence of the accused. The learned counsel for the petitioner submits that such a publication can be affected only at an excessive cost. The venture to effect such a publication is highly expensive. The cheque amount is only Rs.25,000/-and the direction is hence unfair and unjust it is submitted. Impugned order may be set aside and the petitioner may be permitted to take ordinary steps to secure the presence of the accused person, prays the counsel. The learned counsel for the petitioner further submits that this is not a case where the petitioner was guilty of any laches. The accused had entered appearance before the Magistrate, but he started absconding thereafter. In these circumstances, it may not be assumed that the petitioner was guilty of any laches in securing the presence of the accused.

2. In the peculiar facts and circumstances of the case, I find merit in the grievance against the direction to effect the publication in Indian Express or the Hindu having all India coverage. I am satisfied that such direction is not reasonable and would put the petitioner to unnecessary hardship, inconvenience and loss.

3. In the result this petition is allowed. The said order (Annexure A2) is set aside. The learned Magistrate may direct the petitioner to take other reasonable steps necessary to secure the presence of the accused and the petitioner shall comply with such directions promptly.

(R.BASANT, JUDGE)

sj